

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

Williams, Paul Edwin
ABLETT & STEBBING
101-103 Baker Street
LONDON W1M 1FD
GRANDE BRETAGNE



PCT

WRITTEN OPINION
(PCT Rule 66)

BY FAX IN ADVANCE

Date of mailing (day/month/year)	19.08.2004
-------------------------------------	------------

Applicant's or agent's file reference P168	REPLY DUE	within 2 month(s) from the above date of mailing
--	------------------	--

International application No. PCT/GB 03/03258	International filing date (day/month/year) 22.07.2003	Priority date (day/month/year) 22.07.2002
---	---	---

International Patent Classification (IPC) or both national classification and IPC A61H1/02
--

Applicant ABERDEEN UNIVERSITY et Al.
--

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the International preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: **22.11.2004**

Name and mailing address of the international preliminary examining authority:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized Officer

Oelschläger, H

Formalities officer (incl. extension of time limits)
Viegas da Cruz, I
Telephone No. +31 70 340-1923



RECD 08 NOV 2004

WIPO

PCT

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P168	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)
International application No. PCT/GB 03/03258	International filing date (day/month/year) 22.07.2003	Priority date (day/month/year) 22.07.2002
International Patent Classification (IPC) or both national classification and IPC A61H1/02		
Applicant ABERDEEN UNIVERSITY et Al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 11 sheets.
3. This report contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

Date of submission of the demand 20.02.2004	Date of completion of this report 09.11.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Oelschläger, H Telephone No. +31 70 340-1968



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/03258

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1, 3, 4	as published
2, 5-10	filed with telefax on 27.10.2004

Claims, Numbers

1-26	filed with telefax on 27.10.2004
------	----------------------------------

Drawings, Sheets

1/2-2/2	as published
---------	--------------

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/03258

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

the entire international application,

claims Nos. 24-26

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

see separate sheet

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the Standard.

the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N) Yes: Claims 1-23

No: Claims

Inventive step (IS) Yes: Claims 1-23

No: Claims

Industrial applicability (IA) Yes: Claims 1-23

No: Claims

2. Citations and explanations

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/03258

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03258

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. Claim 24 possibly relates to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT, see e.g. p. 7, lines 20 and 21. Consequently, no opinion will be formulated with respect to novelty, inventive step and industrial applicability of the subject-matter of these claim (Article 34(4)(a)(I) PCT).
2. Claims shall not rely on references to the description and drawings (Rule 6.2(a) PCT). Therefore, no establishment of opinion with regard to novelty, inventive step and industrial applicability can be made for claims 25 and 26.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

3. The application does not meet the requirements of Article 6 PCT, because claim 1 is not clear. The functional statement in claim 1, see p. 11, lines 10-13, does not clearly define the matter for which protection is sought. Moreover, it is not clear whether a unit can reciprocally move in response to the pressure sensor sensing an applied pressure, or whether the vibrational stimulator can apply vibrational stimulation in response to the pressure sensor sensing an applied pressure. In view of that, the claims have been examined taking into account the description and the drawings, e.g. p. 5, lines 14-31.
4. Reference is made to the following document:
D1: WO 02/053084 A (ARCTIC MEDICAL AS ;OLSEN OLE (NO); LEIVSETH GUNNAR (NO)) 11 July 2002 (2002-07-11)
5. The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (the references in parentheses applying to this document) an apparatus suitable for muscular stimulation of a user, which comprises a pressure sensor (15), a control unit (22) to which pressure values sensed by the pressure sensor (15) are fed, and a vibrational stimulator (16) suitable for applying vibrational stimulation, wherein the vibrational stimulator (16) is activated by the control unit (22) in response to the pressure sensor (15) sensing an applied

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03258

pressure which in use exceeds a threshold pressure value.

The subject-matter of claim 1 differs from this known apparatus in that the vibrational stimulator can apply vibrational stimulation to a user via a unit which in use can reciprocally move relative to the user, the unit being moveable in response to the pressure sensor sensing an applied pressure which exceeds the threshold pressure.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT) is also considered as involving an inventive step (Article 33(3) PCT).

6. Claims 2-23 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step (Article 33(2),(3) PCT).
7. Claims 1-23 also meet the requirements of the PCT with respect to (Article 33(4) PCT).